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Tax & Legal Update

Newsletter for KPMG clients

Tax & Legal Issues

November 2004

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New legislation

Laws

On Republic of Moldova's joining the Agreement on establishment of the Agency on cooperation and information in the field of international trade as an intergovernmental organization. Law No. 348-XV of 21 October 2004

The Republic of Moldova has joined the Agreement on the establishment of the Agency on cooperation and information in the field of international trade as an intergovernmental organization.

On ratification of the Agreement between the Government of the Republic of Moldova and the Council of Ministers of the Republic of Albania on stimulation and mutual protection of investments. Law No. 355-XV of 28 October 2004

The Agreement between the Government of the Republic of Moldova and the Council of Ministers of the Republic of Albania on stimulation and mutual protection of investments has been ratified.

Parliament Decrees

On approval of the budget of the National Securities Commission for the year 2005. Parliament Decree No. 382-XV of 18 November 2004

The following fees collected by the National Securities Commission have been approved:

- For REPO contract transactions – 0.25 per cent of the value of each contractual transaction;
- For exchange transactions with securities (SWAP) – 1.0 per cent of the value of transaction performed by each of the parties;
- For transactions on contracts of donation of securities, except for transactions on such contracts, concluded between relatives of the first, second and third relation degree – 2.0 per cent of the contractual value;
- For transactions on transfer of securities as contribution to the share capital of business entities – 1.0 per cent of the value of securities.

Government Decrees

On approval of the Regulation on remuneration of some categories of employees for whom a limited length of work time is set. Government Decree No. 1254 of 15 November 2004

The Regulation stipulates the terms of remuneration of the employees for whom, pursuant to labor legislation, a limited length of work time is set depending on the age, health, work condi-

tions or intellectual or psychic-emotional efforts.

The requirements of this Regulation are obligatory for all enterprises, institutions and organizations irrespective of the type of ownership and organizational-legal form.

Departmental legal acts

Instruction on conducting an expert examination to determine the country of origin of goods within the Free Trade Agreement between the Republic of Moldova and the participant countries in the Stability Pact for South-Eastern Europe. Decree of the Ministry of Economy of 26 October 2004

The expert examination on determining the country of origin of goods is performed by the Chamber of Commerce and Industry.

The following documents shall be submitted to the Chamber of Commerce and Industry for the preparation of an examination report:

- Documents confirming the origin of raw materials, semi-finished products, materials, components (supply contracts, invoices, payment orders, bills of lading, customs declarations etc.);
- Documents confirming the right to procure and process raw materials (for procurement and processing organizations);

- Veterinary certificate for export of live animals, cattle products and other commodities of animal origin;
- Documents according to which the process of manufacturing of goods is performed (technological charts);
- Other documents required for examination.

The report on examination is issued within 5 business days from the date of submission of the documents specified above.

Instruction on preparation and issuance of certificates of origin of goods within the Free Trade Agreement between the Republic of Moldova and the participant countries in the Stability Pact for South-Eastern Europe. Decree of the Ministry of Economy of 26 October 2004

The Chamber of commerce and Industry issues transport certificates EUR 1 based on the application prepared in the official language of the state of the importer-exporter or in English, authenticated by the stamp and signature of the applicant.

Copies of the following documents shall be attached to the application:

- Certificate of registration of the company;
- Licenses or permissions (in case of export of licensed or quoted goods);
- Contract of supply (sale-purchase) of goods;
- Other documents confirming the origin of goods (invoices, payment orders, EUR 1 etc);
- Powers of attorney confirming the right to complete the documents for export-import on behalf of the importer-exporter;
- Report on examination confirming the country of origin of the goods.

Transport certificates EUR 1 are prepared within three days from the day of submission of the application.

Transport certificates EUR 1 may be also issued after shipment of goods to the consumer.

This Instruction enters into force on 5 November 2004.

Instruction on administration of excise duty. Instruction of the Chief State Tax Office of the Republic of Moldova No. 188 of 21 October 2004

The Instruction establishes the procedure of completion of the declaration on excise duties and the registers of the shipped excisable goods.

The Instruction enters into force on 12 November 2004.

On approval of the interest rate used for determining the size of obligatory annual payment. Decree of the Fund for the Guarantee of Deposits in the Banking System of the Republic of Moldova No. 14-5 of 29 October 2004

The percentage rate of the obligatory annual payment is set at the level of 0.1554 per cent of the total amount of guaranteed deposits, registered on a bank's balance sheet as at 30 September 2004.

The annual payment shall be made not later than 31 December 2004.

Legal acts amending or completing the legislation in force of the Republic of Moldova

Laws

On amending and completing some legal acts. Law No. 350-XV of 21 October 2004

The following legal acts have been amended and completed:

1. Tax Code No. 1163-XIII of 24 April 1997

Income Tax

The taxpayer is entitled to benefit from tax facilities provided that:

- Tax liabilities and other payments to the budget have been paid in full by the moment tax facilities are granted;
- The delay in the payment of tax liabilities to the budget does not exceed 30 calendar days during the entire period of benefiting from tax facilities.

Article 49² has been added. It sets the following tax facilities for investments:

- Enterprises with share capital exceeding USD 250,000 are exempted from payment of 50 per cent of income tax for five sequential years starting from the tax period in which the agreement with tax authorities on tax exemption was concluded. The exemption is granted upon submission of the first income tax return with registration of taxable income after the formation of or increase in the share capital.
- Enterprises with share capital exceeding USD 2,000,000 are exempted from payment of income tax for three sequential years starting from the tax period in which the agreement with tax authorities on tax exemption was concluded. The exemption is granted upon submission of the first income tax return with registration of taxable income after the formation of or increase in the share capital.
- Business entities, including enterprises with foreign investment, whose facilities' validity has expired, are exempted from the payment of income tax by decreasing the taxable income by 50 per cent of the initial value (acquired or historical) of long-term assets (except for passenger cars, office furniture and assets of general business destination), including long-term assets acquired on leasing terms, but by not more than the amount of the taxable income, provided that the following restrictions are met during three years following the tax period when tax facilities have been granted:

- Dividends shall not be calculated and distributed to shareholders and income shall not be calculated and distributed to company members;
- The assets mentioned above shall not be alienated;
- The assets mentioned above shall not be transmitted into possession and/or use (rent, usufruct, leasing etc).

Value Added Tax

The set off of VAT for imported services acquired by subjects of taxation is permitted only on the condition of payment of VAT to the budget on such services. The obligation to pay VAT on the import of services arises upon the payment for such services.

Assets with the value or customs value exceeding MDL 1,000 per unit, which are fixed assets contributing to the formation of or increase in the capital of a business entity, are VAT exempt.

The VAT amount on tangible assets valued over MDL 1,000 per unit, delivered on the territory of the state as fixed assets contributing to the formation of or increase in the capital of a business entity, is subject to set off.

These amendments and completions enter into force on 1 January 2005.

2. Law on the Program of Privatization for the years 1997-1998, No. 1217-XIII of 25 June 1997

As of 19 November 2004 foreign natural and legal persons, persons without citizenship are allowed to pay the value of privatized objects lump sum or in installments.

3. Law on Customs Tariff, No. 1380-XIII of 20 November 1997

Assets valued over MDL 1,000 per unit, imported as fixed assets contributing to the formation of or increase in the capital of a business entity are exempted from customs duties.

The part of this amendment referring to foreign investors enters into force on 19

November 2004, and the part referring to domestic investors – on 1 January 2005.

Application of Tax Facilities

The provisions of parts (1) and (2) of Article 49² of the Tax Code do not apply to enterprises that are benefiting or benefited from the facilities stipulated by parts (3), (15) and (19) of Article 24 of the Law on putting into force Titles I and II of the Tax Code, No. 1164-XIII of 24 April 1997 and by parts (2), (3) and (11) of Article 49 of the Tax Code before it was modified by Law No. 185-XV of 10 June 2004.

Domestic enterprises not entitled to tax facilities in accordance with parts (3), (15) and (19) of Article 24 of the Law on putting into force Titles I and II of the Tax Code No. 1164-XIII of 24 April 1997 will be able to benefit from the tax facilities stipulated in parts (1) and (2) of Article 49² of the Tax Code only provided that their share capital is formed or increased after 19 November 2004.

Enterprises with foreign investment entitled to tax facilities in accordance with parts (3), (15) and (19) of Article 24 of the Law on putting into force Titles I and II of the Tax Code No. 1164-XIII of 24 April 1997, which did not use this right upon determining the size of formed or increased share capital stipulated in parts (1) and (2) of Article 49² of the Tax Code, have the right to include in this amount the contributions made to their share capital before 19 November 2004.

Enterprises with foreign investment that benefited from tax facilities in accordance with parts (3), (15) and (19) of Article 24 of the Law on putting into force Titles I and II of the Tax Code No. 1164-XIII of 24 April 1997 before 19 November 2004, have the right to continue benefiting from such facilities until the expiration of the validity of income tax exemption agreement.

Business entities, including enterprises with foreign investment, which benefited from tax facilities in accordance with part (15) of Article 24 of the Law on putting into force Titles I and II of the Tax Code No. 1164-XIII of 24 April

1997 before 19 November 2004, have the right to benefit in the future from the benefits set in parts (4) and (5) of Article 49² of the Tax Code.

Business entities, including enterprises with foreign investment, which benefited from tax facilities in accordance with parts (3) and (19) of Article 24 of the Law on putting into force Titles I and II of the Tax Code No. 1164-XIII, but did not use the facilities provided by part (15) of the same Article, may use the facilities provided by parts (4) and (5) of Article 49² of the Tax Code upon expiration of the validity of relevant agreements.

The above-mentioned provisions on application of tax facilities enter into force on 1 January 2005.

As of 19 November 2004, enterprises with foreign investment which benefited from the facilities stipulated by Law on Foreign Investment No. 998-XII of 1 April 1992, are exempted from the customs duty on the import of tangible assets used in the manufacturing of goods for export, until 23 April 2014.

Finished products shall be exported from the territory of the state within six months from the day of declaration of the import of tangible assets (raw materials, auxiliary materials etc) used in their manufacturing.

If the specified finished goods are put in free circulation in the internal market or the term of their obligatory export is breached, the customs authorities shall collect customs duties at the moment of declaration of the specified tangible assets.

On amending and completing Article 4 of the Law on putting into force Title III of the Tax Code No. 1417-XIII of 17 December 1997. Law No.364-XV of 5 November 2004

As of 19 November 2004, the import and/or deliveries within the territory of the state of sugar from sugar beet are taxed at 8 per cent of VAT.

Subjects of VAT taxation which on 1 November 2004 had leftovers of sugar from sugar beet acquired with account of VAT paid or payable to suppliers at the rate of 20 per cent, by that date classify to the cost of left over sugar the differ-

ence between VAT amount paid or payable to suppliers for the acquired sugar, and the VAT amount at the rate of 8 per cent, and excludes this difference upon setting of VAT.

If the VAT amount paid or payable to suppliers for the acquired goods and services exceeds the VAT amount received or to be received from consumers for goods and services supplied to them, the difference arisen at sugar manufacturers annually at the end of the tax period of September is accounted to ex-

penses. This provision does not apply to calculated VAT amounts subject to reimbursement on the delivery of sugar for export.

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